

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**EPHPHATHA INC AND  
YONG BOK CHONG,**

**Plaintiffs,**

**V.**

**STATE FARM LLOYDS AND  
JOHN DESANTIS,**

**Defendants.**

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**No. \_\_\_\_\_**

**JURY DEMAND**

**DEFENDANT STATE FARM LLOYDS' NOTICE OF REMOVAL**

TO THE HONORABLE COURT:

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant State Farm Lloyds ("State Farm" or "Defendant") files this Notice of Removal to the United States District Court for the Northern District of Texas, Dallas Division, on the basis of diversity of citizenship and amount in controversy and respectfully show:

**I.**

**FACTUAL AND PROCEDURAL BACKGROUND**

1. On July 20, 2015, Plaintiffs Ephphatha Inc and Yong Bok Chong filed their Original Petition in the matter styled *Ephphatha Inc and Yong Bok Chong v. State Farm Lloyds and John DeSantis*, Cause No. DC-15-08156, in the 14th Judicial District Court of Dallas County, Texas. The lawsuit arises out of a claim Plaintiff Yong Bok Chong made for damages to his business property under a business insurance policy with State Farm.

2. Plaintiffs served State Farm with a copy of the Original Petition on or about July 30, 2015.

3. Defendant State Farm files this Notice of Removal within 30 days of receiving Plaintiffs' pleading. *See* 28 U.S.C. §1446(b). In addition, this Notice of Removal is being filed within one year of the commencement of this action. *See id.*

4. All pleadings, process, orders, and other filings in the state court action are attached to this Notice as required by 28 U.S.C. §1446(a). A copy of this Notice is also concurrently being filed with the state court and served upon the Plaintiffs.

5. As required by 28 U.S.C. § 1446(a), and Rule 81.1 of the Local Rules for the United States District Court of the Northern District of Texas, being filed simultaneously with the filing of this Notice of Removal is an Index of State Court Documents, which is attached hereto as Exhibit "A." A copy of the District Clerk's Case Summary sheet is attached hereto as Exhibit "B." A copy of the Civil Case Information Sheet is attached hereto as Exhibit "C." A copy of Plaintiffs' Original Petition is attached hereto as Exhibit "D." A copy of Plaintiffs' Enter Demand for Jury request is attached hereto as Exhibit "E." A copy of the Return of Service as to Defendant State Farm Lloyds is attached hereto as Exhibit "F." A copy of the Citation to Defendant State Farm Lloyds is attached hereto as Exhibit "G." A copy of the Citation to Defendant John DeSantis is attached hereto as Exhibit "H." A copy of the Return of Service as to Defendant State Farm Lloyds is attached hereto as Exhibit "I." A copy of Defendant State Farm Lloyds' Original Answer to Plaintiffs' Original Petition is attached hereto as Exhibit "J." Also included with this filing are Defendant State Farm Lloyds' Certificate of Interested Persons, which is attached hereto as Exhibit "K," and a Supplemental Civil Cover Sheet.

6. Venue is proper in this Court under 28 U.S.C. §1441(a) because this district and division embrace Dallas County, Texas, the place where the removed action has been pending and where the incident giving rise to this lawsuit took place.

## **II.**

### **BASIS FOR REMOVAL**

7. Removal is proper based on diversity of citizenship under 28 U.S.C. §§1332(a), 1441(a) and 1446.

#### **A. Diversity of Citizenship**

8. Plaintiffs own the insured property located at 11055 Dennis Road, Suite 15, Dallas, Texas, and, upon information and belief, are citizens of the State of Texas. *See* Pls' Original Pet. § IV, attached hereto as Exhibit "D."

9. Defendant State Farm Lloyds, is, and was at the time the lawsuit was filed, a citizen of the states of Illinois, Colorado and Pennsylvania. State Farm Lloyds is a "Lloyd's Plan" organized under Chapter 941 of the Texas Insurance Code. It consists of an association of underwriters, each of whom, at the time this action was commenced were, and still are, citizens and residents of the states of Illinois, Colorado and Pennsylvania. Therefore, State Farm Lloyds is a citizen and resident of the states of Illinois, Colorado and Pennsylvania for diversity purposes. *Royal Ins. Co. v. Quinn-L Capital Corp.*, 3 F.3d 877, 882 (5th Cir. 1993); *Massey v. State Farm Lloyd's Ins. Co.*, 993 F. Supp. 568, 570 (S.D. Tex. 1998 ("the citizenship of State Farm Lloyds must be determined solely by the citizenship of its members, or underwriters."); *Rappaport v. State Farm Lloyd's*, 1998 WL 249211 (N.D. Tex. 1998) (finding that State Farm Lloyd's is an unincorporated association whose members are completely diverse with Plaintiff, and denying remand).

10. Upon information and belief, Defendant John DeSantis, is, and was at the time the lawsuit was filed, a resident and citizen of the State of Texas.

11. With respect to the claims against DeSantis, it is State Farm's position that DeSantis has been fraudulently joined in this action. Mr. DeSantis acted in only an administrative capacity regarding the underlying insurance claim. Mr. DeSantis did not engage in adjusting activities regarding the underlying claim, and he did not inspect the Plaintiffs' property or prepare a repair estimate as erroneously alleged by Plaintiffs. Therefore, the Texas citizenship of DeSantis should be disregarded for the purposed of evaluating diversity in this matter.

12. Because Plaintiffs are citizens of Texas and Defendant State Farm Lloyds is a citizen of Illinois, Colorado and Pennsylvania, complete diversity of citizenship exists in this matter.

**B. The Amount in Controversy Exceeds \$75,000.00**

13. This is a civil action in which the amount in controversy exceeds \$75,000.00. In their complaint, Plaintiffs allege a variety of claims regarding their insurance claim under their Texas Commercial Insurance Policy. *See* Pls' Original Pet. § IV, attached hereto as Exhibit "D." Plaintiffs' Original Petition seeks damages for breach of contract, violations of the Texas Insurance Code, and breach of the duty of good faith and fair dealing. Plaintiffs ask to be awarded actual damages, treble damages, penalty interest, compensatory damages, exemplary damages, attorney's fees, court costs, and pre- and post-judgment interest. Plaintiffs claim that they are seeking "monetary relief, the maximum of which is over \$200,000 but not more than \$1,000,000." *See* Pls' Original Pet. § XI, attached hereto as Exhibit "D." Based on the

allegations set forth in Plaintiffs' Original Petition, the amount in controversy in this case exceeds the \$75,000.00 jurisdictional requirement.

**Conclusion and Prayer**

14. All requirements are met for removal under 28 U.S.C. §§ 1332 and 1441. Accordingly, Defendant State Farm Lloyds hereby removes this case to this Court for trial and determination.

/s/ Rhonda J. Thompson

Rhonda J. Thompson  
State Bar No.: 24029862  
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**THOMPSON, COE, COUSINS & IRONS, L.L.P.**

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**COUNSEL FOR DEFENDANT  
STATE FARM LLOYDS**

**CERTIFICATE OF SERVICE**

This is to certify that on the 28th day of August, 2015, a true and correct copy of the foregoing was delivered to the following counsel of record by electronic service and/or facsimile transmission and/or certified mail, return receipt requested:

Robert A. Pollom  
Perry Dominguez  
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*Counsel for Plaintiffs*

/s/ Rhonda J. Thompson

Rhonda J. Thompson